



Appeal Decision

Site visit made on 23 July 2019

by Christopher Butler BA (Hons) PG Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 August 2019

Appeal Ref: APP/Q1445/W/19/3227809

4A The Parade, Hangleton Road, Hove BN3 7LU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Waremoss Group Ltd against the decision of Brighton & Hove City Council.
 - The application Ref BH2018/01581, dated 15 May 2018, was refused by notice dated 5 December 2018.
 - The development proposed is a two-storey extension and alterations to existing building to form three self-contained flats.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council within refusal grounds 1 and 2 referred to saved Policy SR6 (Local Centres) of the Brighton and Hove Local Plan 2005 (Local Plan). However, I share the view of both the appellant and the Council that this policy is irrelevant to my consideration and therefore I have not considered it further.

Main Issues

3. The main issues in this appeal are the effect of the development on:
 - The character and appearance of the area;
 - The living conditions of the occupiers of both the development and adjoining dwellings, with particular reference to:
 - i) The standard of accommodation for future occupiers of Flat 4c, with regard to internal space; and impact on the proposed garden to Flat 4b, in terms of privacy; and
 - ii) Impact on the garden to the west, at the rear of number 3 The Parade, with regard to privacy; and
 - The accessibility and level of parking provision.

Reasons

The character and appearance of the area

4. The appeal site is situated on the northern side of Hangleton Road, the A2038, and at the eastern end of a terrace located within the parade. The ground floor

units within this parade are in retail use, with the upper floors being residential. At the appeal site there is a small residential unit at ground level with a separate, slightly larger, residential unit above.

5. To the east of the appeal site are similar terrace properties with retail uses at ground level and residential flats above. A public house lies beyond these and beyond that are more retail units clustered around the Hangleton Road, West Way and Applesham Avenue road junctions. To the north, south and west of the appeal site is two storey residential development.
6. To the rear, northern facing, elevation of the appeal property is a part single, part two storey flat roof rear projection. The single storey element stretches across the rear of the building, whilst the first floor is in-stepped from the common boundary by some 2.5 metres.
7. This two-storey flat roof rear addition projects slightly beyond the east facing side elevation of the building, by approximately 0.4 metre, into the narrow side access. Within the rear garden area is a detached flat roof garage building that is proposed to be demolished as part of this development proposal. At the time of my visit, this garage building was being used for general storage. To the eastern side of the site is the Co-op Supermarket and this property has a large flat roof rear addition over which access to the first-floor flats is obtained.
8. The proposal seeks the erection of a two-storey flat roof side and rear extension. The extension would be set back from the building frontage by some 10.6 metres. It would allow the enlargement of the existing ground floor residential unit and with the reconfiguration of the existing first floor residential unit, together with the provision of an external staircase, would allow for the creation of an additional residential unit at the first floor.
9. Irrespective of the proposed development being set back from the building frontage in excess of 10 metres, the proposal would fill almost the whole width of the side alley and would result in a development that over-extends the building in a disproportionate and unbalanced manner. This would result in a terracing effect and the loss of visually important open space between buildings. Whilst the development will only be seen briefly from the site frontage, the addition when seen, would jar with the existing building and appear harmfully stark and discordant in the streetscene.
10. Considering the foregoing, the proposal would harm the character and appearance of the area. As such the development would be contrary to saved Policy QD14 of the Local Plan, which seeks to secure development that is well designed, sited and detailed in relation to the property to be extended, adjoining properties and the surrounding area.

The living conditions

Standard of accommodation for future occupiers of the development with regard to internal space and impact on the proposed garden to Flat 4B in terms of privacy

11. I consider that flat 4a, the one bed unit, to be adequately sized and naturally lit, and that the size and layout of the bedroom, lounge and kitchen would be adequate for 2 people. In terms of flat 4b, a 2 bed; 3-person flat, the Council has stated that 61 square metres is an appropriate amount of floorspace for that flat. As such only Flat 4c, the first floor 2 bed; 3-person unit, remains in contention in terms of internal floorspace standards.

12. Flat 4c has an internal floor area of around 50.5 Square metres. The difference between flats 4b and 4c is that flat 4b provides a lobby that contains a small area for storage, a separate kitchen and a small toilet/W.C, that also contains a small area of storage. Flat 4b also has a rear garden. Flat 4c on the other hand has the kitchen area provided within the lounge & dining area and there are no areas of storage. The living/kitchen area of flat 4c would be limited and awkward in terms of its layout and too small to accommodate a mix of functions associated with the use of the room for cooking, dining and as a lounge. Once furniture, such as a dining table, sofa and chairs are accommodated within the room it would lack sufficient space within this room or this flat generally for storage or circulation space for ordinary use or socialising. As such, this flat would provide an unsatisfactory standard of living space for its intended occupiers.
13. Turning to whether the development would have an overbearing and enclosing impact on the garden space to the proposed ground floor flat (flat 4b) resulting in a loss of privacy by way of overlooking. The Co-Op unit and the residential flats above it, located immediately to the east of the appeal site, have rear flat roof additions. The addition to the rear of the Co-Op unit is large and projects much further out from the rear than the proposed development. Additionally, at first floor level, above the Co-Ops rear projection, the flats also have flat roof rear additions and whilst these do not extend as far as the ground floor rear projection, or the rear projection of the proposed development, they have an existing enclosing effect on the garden space to the rear of the appeal site.
14. The appeal site also has a change in ground level, which makes the rear additions at the Co-Op unit appear to be more imposing when viewed from the rear garden of the appeal site. Whilst the proposed extension is closer than the rear projections from the Co-Op unit it would not be any more overbearing or enclosing than the existing rear projections described above.
15. In terms of loss of privacy from overlooking within the rear garden of the proposed flat 4b, the council has clarified this concern by accepting that a degree of mutual overlooking from rear facing first floor windows already occurs. However, they consider overlooking from side facing windows to be different in character to that of rear facing windows.
16. The existing and proposed first floor windows in the north facing rear elevation would not result in an unduly onerous or un-neighbourly level of overlooking in that overlooking already occurs from existing windows and this would not significantly increase as a result of the proposal. Furthermore, the proposed first floor windows in the west facing side elevation serve a hallway and bedroom, with the window in the latter being a secondary window. The position of these windows could give rise to overlooking, but I am satisfied that both windows could be fixed shut and obscure glazed through the imposition of a planning condition. With such a condition overlooking would be ameliorated.
17. As such, subject to the imposition of an appropriate condition I do not consider that the development would have an overbearing and enclosing impact on the garden space to the proposed ground floor flat (flat 4b) resulting in a loss of privacy by way of overlooking.

Impact on the garden to the west, at the rear of number 3 The Parade, with regard to privacy

18. For the reasons set out in paragraph 16 above, I do not consider that loss of privacy resulting from overlooking would occur to the garden space located to the west, at the rear of number 3 The Parade. The proposed first floor windows in the west facing side elevation could be adequately controlled by condition requiring them to be fixed shut and obscure glazed ameliorating this concern and this is a fact accepted by the Council in their Statement of Case (SoC).
19. In conclusion of 'living conditions', the development would not result in an overbearing or enclosing impact on the rear garden of the appeal site or adjoining properties or, subject to the imposition of an appropriate condition, result in a loss of privacy resulting from overlooking. However, the development would fail to provide sufficient useable floor space for future occupiers of flat 4c and the proposed development, when considered as a whole, would fail to comply with Saved Policy QD27 of the Local Plan, which seeks to protect the amenity of a development's future users, residents and occupiers.

The accessibility and level of parking provision.

20. The proposal seeks to provide 7 off-street parking spaces within the rear garden area of the appeal site. From my site visit it was clear that the ground floor retail unit at the front of the site currently has no off-street parking provision. Additionally, no obvious off-street parking appeared to exist in relation to the existing residential uses on the site. This being the case, the provision of 3 off-street spaces dedicated to the retail unit and 4 off-street spaces dedicated to the proposed residential uses would be an improvement over the current situation. The provision of these spaces and the tying of them to the proposed development and the retail unit at the front of the site could be secured by planning condition.
21. There is no direct access from within the site to the proposed off-street parking from either the retail unit or the proposed residential development, other than the proposed ground floor flat. Thus, most of the users of the proposed parking spaces would have to walk around the site frontages to reach the parking for the appeal site and vice-versa. However, this would not increase danger to users of adjoining footpaths or roads. Furthermore, as the parking provision would improve existing off-street parking availability in terms of the existing retail and residential units on the site, the development proposal would not be in conflict with policies CP9 of the Brighton and Hove City Plan Part 1 (March 2016) or TR7 of the Local Plan.

Other Matters

22. One of the existing flats has an internal floorspace of 31 square metres and therefore the proposal would improve this current situation. However, my decision must be made on the planning merits of the case before me.
23. The Council in their SoC accepts a five-year housing land supply cannot be demonstrated and states this to be for 4.5 years. The presumption in favour of sustainable development as set out in paragraph 11 of the Framework is a material consideration. Where development plan policies are out of date in respect of housing supply this means granting permission unless any adverse

impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole.

24. The development would create some short-term economic benefits through construction related employment, and investment in the local economy following its occupation. However, those benefits to the construction industry would be modest and short lived and thus a matter of limited weight. In social terms the proposed development would result in a net addition of 1 unit of accommodation and allow for the reconfiguration of the two existing residential units, making a small contribution to the city's housing need and the government's aim to significantly boost housing. I attach moderate weight to this factor. However, the totality of harm arising from the proposal, which would be at odds with the development plan and Framework, would be a matter of significant weight against the development proposed. Accordingly, the adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits. This does not indicate the proposal should be determined other than in accordance with the development plan.

Conclusion

25. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The proposed development would preserve the living conditions of Flat 4b and number 3 The Parade in regards to loss of privacy from overlooking within the rear garden spaces of those properties. Furthermore, the proposed development would not result in an overbearing or enclosing impact on the rear garden space to Flat 4b. It would also provide an acceptable level of off-street parking, which is accessible. However, these factors do not outweigh the significant harm that would arise from the development in terms of its impact on the character and appearance of the area and the living conditions of the future occupants of Flat 4c with regard to internal space. Therefore, the proposal would not accord with the development plan taken as a whole. There are no other considerations, including the Framework, which outweigh this finding.
26. For the reasons given above, I conclude that the appeal should be dismissed.

Christopher Butler

INSPECTOR